

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DENVER W. BLEVINS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:16CV1208
	)	
FRANK PERRY, et al.,	)	
	)	
Defendants.	)	

ORDER

On October 26, 2016, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Plaintiff filed objections [Doc. #5] within the time limit prescribed by Section 636, and later filed an amendment to the objections [Doc. #6]. On June 5, 2018, he filed a Motion for Leave to File and Amend Evidence [Doc. #13.] The Court has reviewed Plaintiff's objections, including the aforementioned Motion to the extent it seeks to amend Plaintiff's previously filed objections, de novo and finds that they do not change the substance of the United States Magistrate Judge's Recommendation [Doc. #3], which is affirmed and adopted.

Plaintiff has also filed a Motion for Change of Venue [Doc. #7], apparently seeking to change the venue for his state court case out of Randolph County, North Carolina Superior Court to this Court. However, that is not an appropriate Motion in the present § 1983 proceeding. The present § 1983 proceeding will be dismissed without prejudice for the reasons stated in the Recommendation. To the extent Plaintiff seeks to challenge his custodial sentence(s), he should use the

proper forms for filing a Petition under 28 U.S.C. § 2254, if he obtains authorization to file a second or successive Petition as appropriate. Separately, to the extent he is seeking monetary damages from the Defendants, he should file a new complaint on the proper § 1983 forms.

Plaintiff also filed a Motion for Evidentiary Hearing [Doc. #9], but there is no basis for an evidentiary hearing given that Plaintiff has not yet filed proper claims on proper forms in a proper district. Finally, to the extent that Plaintiff has filed Motions for Disposition [Doc. #8, #10], those Motions, as well as Plaintiff's Motion for Leave to File and Amend Evidence [Doc. #13], are moot in light of the present Order.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Change of Venue [Doc. #7], Motions for Disposition [Doc. #8, #10], and Motion for Evidentiary Hearing [Doc. #9], and Motion for Leave to File and Amend Evidence [Doc. #13] are DENIED.

IT IS FURTHER ORDERED that this action is DISMISSED sua sponte without prejudice to Plaintiff filing (a) new complaint(s) on the proper forms which correct(s) the defects cited in the Recommendation.

This the 1<sup>st</sup> day of October, 2018.

/s/ N. Carlton Tilley, Jr.  
Senior United States District Judge